

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF DELAWARE

3 - - -

4 MBIA INSURANCE :
5 CORPORATION AND WELLS :
6 FARGO BANK, N.A. (f/k/a :
7 WELLS FARGO BANK :
8 MINNESOTA N.A.) AS :
9 TRUSTEE OF SFC GRANTOR :
10 TRUST, et al., :

11 Plaintiffs/Counterclaim :
12 Defendants, :

13 vs. :

14 ROYAL INDEMNITY COMPANY, :
15 et al., :

16 : CIVIL ACTION NO.
17 Defendant/Counterclaim : 02-1294-JJF
18 Plaintiff. :
19 - - -

20 Videotaped Track (I) deposition of
21 DEBORAH PIKE, taken pursuant to notice, at the
22 Law Offices of Morris, Nichols, Arsht &
23 Tunnell, LLP., 1201 North Market Street,
24 Wilmington, Delaware 19899, on Wednesday,
25 August 30th, 2006, beginning at approximately
11:12 a.m., before David Walsh, Registered
Professional Reporter and Notary Public, and
Robert Higham, Videotape Operator, there being
present:

 - - -

1 VIDEO OPERATOR: We're on the
2 record. This is a videotaped deposition for
3 the United States District Court for the
4 District Of Delaware. My Name is Robert
5 Higham. I'm the videotape operator. I'm 11:11:56
6 employed by Veritext New York Reporting
7 Services. The court reporter is David Walsh.

8 The caption for today's case
9 is as follows: MBIA Insurance Corporation,
10 et al versus Royal Indemnity Corp Company, et 11:12:10
11 al, case number 02-1294-JJF. This deposition
12 is being taken at the Law Offices at 1201
13 North Market Street, Wilmington, Delaware.

14 All counsel will be reflected
15 on the stenographic record. The deponent for 11:12:28
16 today is Deborah Pike. Today's date is
17 August 30th, 2006. The camera time is 11:12.
18 The reporter will now swear in the witness.

19 - - -

20 DEBORAH PIKE, having been 11:12:39
21 duly sworn, was examined and testified as
22 follows:

23 - - -

24 EXAMINATION

25 - - -

11:12:39

1 conducting business. 11:23:43

2 Q. All right. Do you remember what type of
3 regulatory documents those were?

4 A. Yeah. The certificate of authority and
5 collection licenses and lending licenses. 11:23:55

6 Q. All right. Do you remember the name of
7 the paralegal?

8 A. Darcy Hamill or Darcy Love I guess was
9 her -- Darcy Lee.

10 Q. Now, did your title at SFC change during 11:24:14
11 the period that you worked there?

12 A. Yes. I don't -- executive
13 administrative something or other.

14 Q. All right. Do you remember
15 approximately when that was? 11:24:31

16 A. A year later.

17 Q. All right. Did your job duties change
18 in relation to that?

19 A. No.

20 Q. And did your title then subsequently 11:24:40
21 change?

22 A. Yes.

23 Q. Okay.

24 A. To compliance manager/administrative
25 manager. 11:24:50

1 the corporate structure or I'm sorry, I forget 11:30:40
2 the term you used.

3 A. The organizational chart.

4 Q. The organizational chart for SLS?

5 A. That would have been Andrew as the CEO, 11:30:47
6 Gary as the president, Frank Martinez would
7 have been a vice-president, Diane Messick
8 would have been, again, on that org chart as
9 whatever her title was. She dealt with the
10 finances. And then underneath those people 11:31:11
11 were their managers.

12 Q. All right. And how about for SMS?

13 A. Again, Andrew was the CEO. Perry
14 Turnbull was the president and then the same
15 people would have been like Diane Messick and 11:31:28
16 I don't remember who else would have been
17 under that org chart.

18 Q. Okay. Talking about SFC?

19 A. Um-hmm.

20 Q. Who was responsible for the day-to-day 11:31:51
21 operations of SFC?

22 A. Gary Hawthorne.

23 Q. And who had the ultimate, you know,
24 decision making authority at SFC?

25 A. I believe Gary Hawthorne. 11:32:04

1 Q. How about at SLS, who -- 11:32:08

2 A. Perry Turnbull.

3 Q. Let me break that down so the question

4 is clear. Who was responsible for the

5 day-to-day operations at SLS? 11:32:14

6 A. Oh, Gary Hawthorne.

7 Q. All right. And who was responsible for

8 the ultimate decision making authority at SLS?

9 A. Oh, SLS? Gary Hawthorne and then SMS

10 was Perry Turnbull. 11:32:29

11 Q. So, SMS Perry -- let me just ask the

12 question so we have it clear on the record.

13 At SMS, who was responsible for the day-to-day

14 operations?

15 A. Perry Turnbull. 11:32:40

16 Q. All right. And did Perry Turnbull also

17 have the ultimate decision making authority at

18 SMS?

19 A. At SMS, yes.

20 Q. Okay. I'd like to talk a bit about 11:32:50

21 Andrew Yao.

22 A. Um-hmm.

23 Q. You gave me his title, but what were his

24 day-to-day business at SFC?

25 A. I couldn't answer that question, I don't 11:33:11

1 A. Yes. The books that Maria had were the 12:02:37
2 corporate binders that -- the minutes that I
3 took were executive committee minutes, not
4 corporate minutes. Maria did the board
5 resolutions, et cetera. Any resolutions Maria 12:02:59
6 did. I just did a committee meeting. That
7 was the difference.

8 Q. And did Pepper Hamilton maintain the
9 committee minutes that you took or was that
10 maintained in-house? 12:03:14

11 A. They were in-house. I do not believe I
12 ever sent Rod any or Maria any executive
13 committee meeting.

14 Q. That would be the same for anybody at
15 Pepper? 12:03:28

16 A. Correct.

17 Q. Did Maria DeCarlo have any control over
18 the day-to-day operations of SFC?

19 A. No.

20 Q. Did Maria DeCarlo have any control over 12:03:43
21 SFC's business decisions?

22 A. No.

23 Q. Was Maria DeCarlo in anyway part of the
24 corporate -- once again, I'm forgetting the
25 word that you used, the corporate structure? 12:03:59

1 A. Yes, that's right. 12:05:58

2 Q. Did either Sheilah Gibson or Shari
3 Richardson or Joanne Fungaroli have any
4 control over the day-to-day operations of SFC?

5 A. No. 12:06:12

6 MR. PFAEHLER: Objection.

7 BY MR. SHAPIRO:

8 Q. Just please wait until I finish the
9 question. Did either Sheilah Gibson, Shari
10 Richardson or Joanne Fungaroli have any 12:06:16
11 control or SFC's business decisions?

12 MR. PFAEHLER: Objection.

13 THE WITNESS: No.

14 BY MR. SHAPIRO:

15 Q. What was Rod Gagne's role with respect 12:06:30
16 to SFC?

17 A. To provide legal advice to SFC.

18 Q. On any particular topics?

19 A. I don't know.

20 Q. I think you previously said you had 12:06:48
21 limited contacts with Rod?

22 A. Correct.

23 Q. Can you quantify that, do you remember
24 how many times you were in contact with him?

25 A. I don't think more than a half a dozen 12:06:58

1 to a dozen times over the whole duration of my 12:07:02
2 employment with SFC.

3 Q. All right. Do you remember what the
4 subject matter of those contacts were?

5 A. I probably would have called him and 12:07:15
6 asked him where the documents were. We were
7 closing by 4:00 o'clock, where are they? Did
8 you get the documents? Where is a document?
9 Other than that, I wouldn't have asked him
10 anything or had any reason to talk to him. 12:07:34

11 Q. Did you ever meet him in person?

12 A. One time I believe.

13 Q. Once. Did you ever -- do you remember
14 where that was?

15 A. Yeah, at the SFC office. I believe he 12:07:46
16 came down once.

17 Q. You don't remember seeing him at the SFC
18 office anytime other than that one occasion?

19 A. No.

20 Q. Do you have any reason to believe that 12:08:02
21 Rod came to SFC's office in Delaware on any
22 occasion other than that one time that you saw
23 him?

24 MR. PFAEHLER: Objection.

25 THE WITNESS: I have no idea. 12:08:12

1 Q. And do you remember conversations with 12:09:31
2 anyone else at SFC other than Diane Messick
3 about Rod Gagne?

4 A. No.

5 Q. Did Rod Gagne or anyone from Pepper 12:09:42
6 Hamilton run SFC?

7 MR. PFAEHLER: Objection.

8 THE WITNESS: Not to my
9 knowledge.

10 BY MR. SHAPIRO: 12:09:51

11 Q. Did Rod Gagne or anyone from Pepper
12 Hamilton play any role in evaluating your
13 performance as an SFC employee?

14 A. No.

15 Q. Did Rod Gagne or anyone from Pepper play 12:09:59
16 any role in setting your salary?

17 A. No.

18 Q. Did Rod Gagne or anyone from Pepper play
19 any role in setting the salaries of other SFC
20 employees? 12:10:09

21 MR. PFAEHLER: Objection.

22 THE WITNESS: I don't believe
23 so.

24 BY MR. SHAPIRO:

25 Q. Okay. Did Rod Gagne or anyone from 12:10:18

1 Pepper tell you how to do your job? 12:10:20

2 A. No.

3 Q. Did Rod Gagne or anyone from Pepper play
4 any role in setting the hours that you worked
5 at SFC? 12:10:27

6 MR. PFAEHLER: Objection.

7 THE WITNESS: No.

8 BY MR. SHAPIRO:

9 Q. Did Rod Gagne or anyone from Pepper
10 Hamilton play any role in setting the hours 12:10:32
11 worked by any other SFC employees?

12 MR. PFAEHLER: Objection.

13 THE WITNESS: Not that I'm
14 aware of.

15 BY MR. SHAPIRO: 12:10:41

16 Q. Did Rod Gagne or anyone from Pepper play
17 any role in setting SFC's employment
18 guidelines?

19 A. Not that I'm aware of.

20 MR. PFAEHLER: Objection. 12:10:49

21 BY MR. SHAPIRO:

22 Q. Setting aside Rod Gagne because we
23 already talked about him, did anyone else from
24 Pepper Hamilton come to SFC's offices on a
25 regular basis? 12:10:58

1 MR. PFAEHLER: Objection. 12:11:00

2 THE WITNESS: No.

3 BY MR. SHAPIRO:

4 Q. Did Rod Gagne or anyone from Pepper
5 Hamilton play any role in the SFC's personnel 12:11:10
6 decisions, such as hiring or firing?

7 MR. PFAEHLER: Objection.

8 THE WITNESS: No.

9 BY MR. SHAPIRO:

10 Q. Did Rod Gagne or anyone from Pepper 12:11:19
11 Hamilton play any role in deciding what
12 student loans should be purchased?

13 A. I have no idea.

14 MR. PFAEHLER: Objection.

15 BY MR. SHAPIRO: 12:11:30

16 Q. Did Rod Gagne or anyone from Pepper
17 Hamilton play any role in soliciting business
18 from trucking schools?

19 MR. PFAEHLER: Objection.

20 THE WITNESS: I don't believe 12:11:38
21 so.

22 BY MR. SHAPIRO:

23 Q. Did Rod Gagne or anyone from Pepper
24 Hamilton play any role in servicing the
25 student loans? 12:11:45

1 A. No. 12:11:46

2 MR. PFAEHLER: Objection.

3 BY MR. SHAPIRO:

4 Q. Did Rod Gagne or anyone from Pepper
5 Hamilton have any direct contact with the 12:11:50
6 trucking schools?

7 MR. PFAEHLER: Objection.

8 THE WITNESS: I don't know.

9 BY MR. SHAPIRO:

10 Q. Did Rod Gagne or anyone from Pepper 12:11:59
11 Hamilton have any contact with the students
12 whose loans SFC purchased?

13 MR. PFAEHLER: Objection.

14 THE WITNESS: No.

15 BY MR. SHAPIRO: 12:12:08

16 Q. Did Rod Gagne or anyone from Pepper
17 Hamilton have any control over shareholder
18 distributions at SFC?

19 MR. PFAEHLER: Objection.

20 THE WITNESS: No. I'm sorry, 12:12:20
21 could you repeat the question?

22 MR. SHAPIRO: We can just
23 have the court reporter read it back.

24 (Whereupon, the court reporter
25 read back the last question.) 12:12:27

1 THE WITNESS: No. 12:12:36

2 MR. PFAEHLER: Objection.

3 BY MR. SHAPIRO:

4 Q. Did Rod Gagne or anyone from Pepper
5 Hamilton have any say in purchasing office 12:12:42
6 supplies or office equipment?

7 A. No.

8 MR. PFAEHLER: Objection.

9 BY MR. SHAPIRO:

10 Q. Did Rod Gagne or anyone from Pepper 12:12:50
11 Hamilton ever direct you to transfer any
12 funds?

13 MS. BAUER: Object to the
14 form.

15 THE WITNESS: No. 12:12:58

16 BY MR. SHAPIRO:

17 Q. Did Rod Gagne -- did SFC have a Finance
18 Committee?

19 A. Yes.

20 Q. All right. Did Rod Gagne or anyone from 12:13:07
21 Pepper Hamilton ever attend any meetings of
22 the Finance Committee?

23 MR. PFAEHLER: Objection.

24 THE WITNESS: I don't know.

25 BY MR. SHAPIRO: 12:13:20

1 Q. Do you know if Rod Gagne or anyone from 12:13:21
2 Pepper Hamilton were sent copies of Finance
3 Committee reports?

4 MR. PFAEHLER: Objection.

5 THE WITNESS: I don't know. 12:13:29

6 BY MR. SHAPIRO:

7 Q. Did SFC have a Credit Committee?

8 A. Yes.

9 Q. Do you know if Rod Gagne or anyone from
10 Pepper Hamilton ever attended meetings of the 12:13:37
11 Credit Committee?

12 MR. PFAEHLER: Objection.

13 THE WITNESS: I don't believe
14 they did.

15 BY MR. SHAPIRO: 12:13:43

16 Q. Do you know if the Credit Committee made
17 reports, written reports?

18 A. Yes, they did.

19 Q. Do you know if Rod Gagne or anyone from
20 Pepper Hamilton was sent copies of those 12:13:57
21 Credit Committee reports?

22 MR. PFAEHLER: Objection.

23 THE WITNESS: Not to my
24 knowledge they weren't.

25 BY MR. SHAPIRO: 12:14:03

1 Q. Does the phrase servicer reports mean 12:14:05
2 anything to you?

3 A. Yes.

4 Q. What do you know about them?

5 A. I believe it shows the loans that are 12:14:14
6 being collected on and their status, whether
7 they're 30 day, 60 day, 90 day delinquent.

8 Q. Okay. Did Rod Gagne or anyone from
9 Pepper Hamilton receive copies of those
10 servicer reports? 12:14:37

11 A. I don't know.

12 MR. PFAEHLER: Objection.

13 BY MR. SHAPIRO:

14 Q. Did Rod Gagne or anyone from Pepper
15 Hamilton play any role in preparing or 12:14:46
16 reviewing SFC's financial statements?

17 MR. PFAEHLER: Objection.

18 BY MR. SHAPIRO:

19 Q. You know what, actually I withdraw the
20 question. Did Rod Gagne or anyone from Pepper 12:14:53
21 Hamilton play any role in preparing SFC's
22 financial statements?

23 MR. PFAEHLER: Objection.

24 THE WITNESS: No.

25 BY MR. SHAPIRO: 12:15:02

1 Q. Do you know whether SFC ever transferred 12:15:06
2 any funds to SLS?

3 MS. BAUER: Object to the
4 form.

5 MR. PFAEHLER: Objection. 12:15:16

6 THE WITNESS: I believe so.

7 BY MR. SHAPIRO:

8 Q. Do you know if Rod Gagne or anyone from
9 Pepper Hamilton had any role in those
10 transfers? 12:15:21

11 MR. PFAEHLER: Objection.

12 THE WITNESS: No, I don't
13 believe he ever did.

14 BY MR. SHAPIRO:

15 Q. Do you know if SFC ever transferred 12:15:26
16 funds to SMS?

17 A. I believe they did.

18 Q. And do you know if Rod Gagne or anyone
19 from Pepper Hamilton had any role in
20 transferring funds from SFC to SMS? 12:15:37

21 MR. PFAEHLER: Objection.

22 THE WITNESS: No, he would
23 not.

24 BY MR. SHAPIRO:

25 Q. Do you know if Rod Gagne or anyone from 12:15:56

1 Pepper Hamilton was in anyway involved with 12:15:58
2 SFC's student payment processing?

3 MR. PFAEHLER: Objection.

4 MS. BAUER: Object to the
5 form. 12:16:09

6 THE WITNESS: No.

7 BY MR. SHAPIRO:

8 Q. Did Rod Gagne or anyone from Pepper
9 Hamilton have any access to SFC's computer
10 systems? 12:16:19

11 MR. PFAEHLER: Objection.

12 THE WITNESS: No, no, he
13 didn't.

14 BY MR. SHAPIRO:

15 Q. Did Rod Gagne or anyone from Pepper 12:16:27
16 Hamilton play any role in developing SFC's
17 underwriting guidelines for student loans?

18 MR. PFAEHLER: Objection.

19 THE WITNESS: I don't think
20 he did. 12:16:38

21 BY MR. SHAPIRO:

22 Q. Did Rod Gagne or anyone from Pepper
23 Hamilton play any role in developing SFC's
24 credit policy?

25 MR. PFAEHLER: Objection. 12:16:46

1 THE WITNESS: I don't believe 12:16:46
2 so, but that's not to say it might not have
3 been submitted to him for his opinion.

4 BY MR. SHAPIRO:

5 Q. All right. You just don't know? 12:16:57

6 A. I don't know.

7 MR. PFAEHLER: Objection.

8 BY MR. SHAPIRO:

9 Q. Does the word forbearance or forbearance
10 payments mean anything to you? 12:17:06

11 A. Yes.

12 Q. All right. What do you know about them
13 with respect to SFC?

14 A. That when the first payment in SFC's
15 case was not made in a timely manner, that the 12:17:17
16 money that was in reserve could be taken and
17 make the payments so that the loan would be
18 kept up-to-date or the school could make the
19 payment. It's somebody making a payment on
20 the loan when the person that has a loan 12:17:38
21 hasn't made the payment.

22 Q. Do you know whether Rod Gagne or anyone
23 from Pepper Hamilton were aware of that
24 process you just described?

25 MR. PFAEHLER: Objection. 12:18:03